

1 Timothy B. Pierce, In Pro Per
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5 Plaintiff, In Pro Per

6 UNITED STATES DISTRICT COURT
7 FOR THE NORTHERN DISTRICT OF CALIFORNIA
8 (SAN JOSE DIVISION)

9 TIMOTHY B. PIERCE,

10 Plaintiff,

11 v.

12 CITY OF PALO ALTO, a government entity;
13 CHIEF DENNIS BURNS, an individual;
14 AGENT DAN RYAN, an individual; and
15 DOES 1-30 inclusive,
16

17 Defendants.
18
19

20 Plaintiff TIM PIERCE hereby complains against Defendants CITY OF PALO ALTO,
21 CHIEF DENNIS BURNS, AGENT DAN RYAN, and DOES 1-30, inclusive (collectively
22 "Defendants") as follows:
23

24 **THE PARTIES**

25 1. Plaintiff Tim Pierce ("Plaintiff") is and was at all relevant times an individual
26 residing in Santa Clara County.
27
28

COMPLAINT

1

Case No. _____

FILED

DEC 28 2015

E-FILING

ADR

SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

440
#

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np
Fees paid.

Case No. CV 15-06117

PSG

COMPLAINT FOR VIOLATION OF
CIVIL RIGHTS

(Demand for Jury Trial)

2. Defendant City of Palo Alto (the "City") is and was at all relevant times a government entity within Santa Clara County, California, which operates and governs the Palo Alto Police Department.

3. Defendant Dennis Burns ("Burns") is and was at all relevant times an individual employed by the City as Assistant Chief of Police for the Palo Alto Police Department acting under color of law and in the course and scope of his employment.

4. Defendant Agent Dan Ryan ("Ryan") is and was at all relevant times an individual employed by the City as an Agent for the Palo Alto Police Department and acting under color of law and in the course and scope of his employment.

5. Plaintiff is informed and believes and thereon alleges that at all relevant times, each of the above-named Defendants was the agent or principal of the other Defendants and acted within the course and scope of such agency and/or employment. Plaintiff is informed and believes and thereon alleges that each and every wrongful act by Defendants complained of herein was done with the approval, express or implied, of each of the other Defendants, and each Defendant has ratified and approved the acts and omissions of each of the others.

JURISDICTION AND VENUE

6. Plaintiff brings this action against Defendants to redress the deprivation of rights secured him by the Fourth Amendment, Fourteenth Amendment, Due Process Clause and Equal Protection Clause of the US Constitution, 42 U.S.C. § 1983, and California common law.

7. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331, 1332, and 1343(a)(3), and 42 U.S.C. § 1983.

8. Plaintiff also invokes supplemental jurisdiction over Plaintiff's state law claims against Defendants for common law violations pursuant to 28 U.S.C. § 1367 as the common law claims form part of the same case or controversy.

1 9. Venue is proper in this District pursuant to 28 U.S.C. § 1391 because a
 2 substantial part of the events or omissions that give rise to Plaintiff's claims occurred in
 3 Santa Clara County.

4 **ALLEGATIONS COMMON TO ALL COUNTS**

5 10. In order to conceal the unlawful acts committed upon Plaintiff and to
 6 perpetuate the malicious prosecution of Plaintiff, Defendants engaged in a pattern of
 7 deliberate withholding and suppressing evidence from the Plaintiff and the Court.
 8 Upon multiple requests for video tapes from DA, Palo Alto Police Department, an
 9 unduly time (8 months two weeks duration) had transpired before the prevailing
 10 Judge demanded the DA turn over the tapes, so as to avoid another continuance and
 11 move forward with trial. Subsequently tapes were finally released the following week
 12 with the purported missing Plaintiffs' vital evidence, and discussion of Plaintiffs'
 13 "health issues" acknowledged by Agent Dan Ryan, present at the time of incident.
 14 Agent Dan Ryan knowingly and deliberately ignored Title 17.

15 11. In order to deliberately conceal the unlawful acts committed upon Plaintiff and
 16 to perpetuate the malicious prosecution of Plaintiff, Defendants unlawfully altered
 17 audio/video recordings that captured the incident. As of recent acquiring the services
 18 of a professional "Forensic Lab Analysis", resulted in: ie. officer (Agent Dan Ryan)
 19 voice overlap, also (Agent Dan Ryan) appearing in two different places at the same
 20 time line, to which is humanly impossible unless video tapes were deliberately
 21 unmistakably altered. Also according to previous court transcripts (hung jury)
 22 California vs. Timothy Pierce, of 2 officers "under oath" at the same scene confirming
 23 a contradicting "time line" accounting for a minimum of 8 minutes, "missing" or
 24 deleted from the middle of the video prior to second back-up officer arriving at scene.
 25 Under oath Verified and Confirmed (Agent Dan Ryan knowingly stating approximately
 26 4 minutes) given as altered/tampered/edited video to contradict the timeline stated
 27 during trial and under oath by the back up officer arriving at the scene (actual 13
 28 minutes of time lapse occurred), for a difference of a minimum of 8 minutes evidence

1 deleted and spliced together resulting to show approximately 4 minutes given by the
 2 DA, and the Palo Alto Police Department. Google KEY WORDS (Police Department
 3 Audio Video Tampering) Palo Alto Police Department is TOP HIT for search in USA.

4 12. As a direct and proximate result of Defendants' conduct, Plaintiff has suffered
 5 and continues to suffer physical injury, injury to his reputation, severe emotional
 6 distress, embarrassment, humiliation, anxiety, fear and anguish and now lives in
 7 constant fear for his safety and of being persecuted by Defendants in the future all to
 8 his damage in an amount according to proof.

9 **FIRST CAUSE OF ACTION**
 10 **(VIOLATION OF CIVIL RIGHTS, 42 U.S.C. §1983)**
 11 **(Against All Defendants)**

12 13. Plaintiff re-alleges and incorporates herein by reference all preceding
 13 paragraphs of the Complaint.

14 14. Section 1983 creates an action for damages against individuals and local
 15 governmental bodies who deprive a plaintiff of rights, privileges or immunities
 16 secured by the Constitution and laws.

17 15. Defendants conducted, as described herein, violated Plaintiff's rights as
 18 guaranteed by the First Amendment, Fourth Amendment, Fourteenth Amendment, Due
 19 Process Clause and Equal Protection Clause of the United State Constitution.

20 16. Defendants' conduct, as described herein, constitutes an unlawful arrest,
 21 unreasonable and excessive use of force and deprivation of liberty without due process
 22 of law under color of state law. In addition, Defendants' conduct, as described herein,
 23 constitutes a deprivation of Plaintiff's right to be free from an unlawful entry, an
 24 unlawful arrest, and unreasonable searches and seizures, and the right to be free from
 25 interference with the zone of privacy. In addition, Defendants' conduct, as described
 26 herein, further constitutes obstruction of justice with the malicious intent to deprive
 27 Plaintiff of his rights to due process and equal protection of the law.

28 17. Each of the Defendants was involved in and encouraged the other Defendants'
 deprivation of Plaintiff's rights as alleged herein.

1 18. As a direct and proximate result of Defendants' conduct, Plaintiff has suffered
 2 and continues to suffer physical injury, injury to his reputation, severe emotional
 3 distress, embarrassment, humiliation, anxiety, fear and anguish and now lives in
 4 constant fear for his safety and of being persecuted by Defendants in the future all to
 5 his damage in an amount according to proof.

6 19. Defendants acted with actual malice toward Plaintiff and with willful and
 7 wanton indifference to and deliberate disregard for the statutory and constitutional
 8 rights of Plaintiff, entitling Plaintiff to punitive damages against the Police Officers.

9 20. Upon information and belief, at all relevant times, the City permitted and
 10 tolerated a pattern and practice of unreasonable searches and seizures, unreasonable
 11 and excessive use of force and obstruction of justice by police officers.

12 21. Upon information and belief, the City has maintained a system of review of
 13 police conduct that is so untimely and cursory as to be ineffective.

14 22. The City by and through their supervisory employees and officials, had been
 15 given notice of a pattern of ongoing constitutional violations and practices by
 16 Defendant Police Officers. Despite such notice, the City demonstrated the deliberate
 17 indifference to this pattern and these practices of constitutional violations by failing to
 18 take necessary, appropriate or adequate measure to prevent the continued perpetuation
 19 of said pattern of conduct by the individual Defendants. This lack of an adequate
 20 supervisory response by Defendant the City demonstrates the existence of an informal
 21 custom or policy that tolerates and promotes the obstruction of justice, the use of
 22 excessive force and violations of civil rights of residents by Defendants. This lack of
 23 a response impliedly authorized Defendants' continued abuse of their status as police
 24 officers and their use and control of Palo Alto Police Department weapons to terrorize
 25 unarmed private citizens, in the past, now and in the future.

26 23. The City has also failed to properly investigate citizen complaints made against
 27 their employee officers. This failure results from a systematic inability and
 28 unwillingness of the department to police itself and to be accountable for the illegal

1 acts of its officers. Investigations that are conducted are done so in a perfunctory
 2 manner and are not handled objectively. Consequently, the Defendant Police Officers
 3 are not properly disciplined, retrained, reassigned, demoted, or discharged because the
 4 department intentionally fails to identify and follow-up on instances where excessive
 5 force and other unconstitutional violations are alleged.

6 24. The acts of the Police Officers herein are the direct and proximate result of the
 7 deliberate indifference of Defendants the City and their supervisory officials and
 8 employees as to violations of constitutional rights of citizens by Defendants. The
 9 Plaintiff's injuries were foreseeable and a proximate result of the deliberate
 10 indifference of the City to the pattern, practices, customs and policies described above.

11 25. This policy and practice of the City encouraged and caused constitutional
 12 violations by police officers, including the violation of Plaintiff's constitutional rights.

13 26. At all relevant times, the Police Officers were acting within the scope of their
 14 employment and pursuant to the aforementioned policies and practices of the City.

15 WHEREFORE, Plaintiff prays for relief as set forth herein.

16 **SECOND CAUSE OF ACTION**
 17 **(Intentional Infliction of Emotional Distress)**
 18 **(Against All Defendants)**

19 27. Plaintiff re-alleges and incorporates herein by reference all preceding
 20 paragraphs of the Complaint.

21 28. In doing each and all of the acts alleged herein, the Police Officers, while
 22 acting as agents and employees for the City, engaged in a course of conduct that was
 23 intentional, extreme and outrageous.

24 29. Defendants engaged in this course of conduct with wanton and reckless
 25 disregard for the harm or injury that might result to Plaintiff.

26 30. As a direct and proximate result of Defendants' conduct, Plaintiff has suffered
 27 and continues to suffer physical injury, injury to his reputation, severe emotional
 28 distress, embarrassment, humiliation, anxiety, fear and anguish and now lives in

1 constant fear for his safety and of being persecuted by Defendants in the future all to
 2 his damage in an amount according to proof. Plaintiff has suffered and continues to
 3 suffer injury to his reputation, severe emotional distress, eviction, embarrassment,
 4 humiliation, anxiety, fear and anguish, missed the joy of life opportunities that will
 5 never be replaced or afforded and now lives in constant fear for his safety and of being
 6 maliciously prosecuted by Defendants in the future all to his damage in an amount
 7 according to proof.

8 31. Defendants acted with actual malice toward Plaintiff and with willful and
 9 wanton indifference to and deliberate disregard for the safety and rights of Plaintiff,
 10 entitling Plaintiff to punitive damages.

11 32. At all relevant times, the Police Officers were acting within the scope of their
 12 employment and pursuant to the aforementioned policies and practices of the City.

13 **THIRD CAUSE OF ACTION**

14 **(Negligence)**

15 **(Against All Defendants)**

16 33. Plaintiff re-alleges and incorporates herein by reference all preceding
 17 paragraphs of the Complaint.

18 34. The Police Officers, while acting as agents and employees for the City, further
 19 breached this duty by unreasonably searching and seizing Plaintiff without probable
 20 cause.

21 35. As a legal and proximate result of Defendants' negligence, Plaintiff has
 22 suffered and continues to suffer damages, including but not limited to, severe
 23 emotional distress, embarrassment, humiliation, anxiety, fear and anguish.

24 36. Defendants' violations of Plaintiff's rights, including without limitation the
 25 assault and battery and unreasonable search and seizure, was done with wanton
 26 indifference to and deliberate disregard for the safety and rights of Plaintiff, entitling
 27 Plaintiff to punitive damages.
 28

1 37. The City owed Plaintiff a duty to train, supervise and otherwise control the
 2 Police Officers in the use of force and other matters incidental to the exercise of police
 3 functions, and properly enforcing title 17.

4 38. The City breached its duty by failing to provide adequate training, supervision,
 5 and control of the Police Officers. i.e.; Previous and current ongoing court cases
 6 involving tampering with evidence brought against the Palo Alto Police Department.

7 39. As a legal and proximate cause of the City's negligence, Plaintiff has suffered
 8 damages, including but not limited to, injury to Plaintiff's mental peace and comfort,
 9 severe emotional distress, embarrassment, humiliation and anguish.

10 **FOURTH CAUSE OF ACTION**
 11 **(False Arrest and False Imprisonment)**
 12 **(Against the Police Officers, the City, and DOES 1-30)**

13 40. Plaintiff re-alleges and incorporates herein by reference all preceding
 14 paragraphs of the Complaint.

15 41. As described herein, Defendants intentionally and unlawfully violated
 16 Plaintiff's personal liberty by confining Plaintiff against Plaintiff's will in full
 17 knowledge of Title 17, as well as with the express and implied threat of force. By
 18 Defendant (Agent Dan Ryan) removing Plaintiffs baseball cap forcefully and punching
 19 the hat back into the chest of Plaintiff (Timothy Pierce) while shoving backwards to
 20 intentionally unbalance (Tim Pierce), with subsequent, intentional and unlawful harm
 21 of Plaintiff. The confinement was for an appreciable period.

22 42. As a direct and proximate result of Defendants' FALSE arrest and FALSE
 23 imprisonment, as set forth above, Plaintiff has suffered and continues to suffer injury
 24 to his reputation, severe emotional distress, embarrassment, humiliation, anxiety, fear
 25 and anguish, all to his damage in an amount according to proof.

26 43. Defendants committed the acts alleged herein maliciously, fraudulently, and
 27 oppressively, with the wrongful intention of injuring Plaintiff, from an improper and
 28 evil motive amounting to malice, and in conscious disregard for Plaintiff's rights.

WHEREFORE, Plaintiff prays for relief as follows:

1. For compensatory (special) damages according to proof;
2. For general damages, including without limitation, for mental and emotional distress according to proof;
3. For punitive damages according to proof;
4. For an award of interest, including prejudgment interest, at the legal rate;
5. For an award of attorneys' fees pursuant to, without limitation, 42 U.S.C. §1988;
6. For costs of suit incurred; and
7. For such other and further relief as the Court may deem just and proper.

TIMOTHY B. PIERCE

By: Timothy B. Pierce
Timothy B. Pierce
Plaintiff, In Pro Per

Plaintiff hereby demands a trial by jury for all claims for which a jury trial is available pursuant to Federal Rules of Civil Procedure Sections 38(a) and (b).

TIMOTHY B. PIERCE

Timothy B. Pierce
Plaintiff, In Pro Per